



State of New Jersey
DEPARTMENT OF COMMUNITY AFFAIRS
101 SOUTH BROAD STREET
PO BOX 805
TRENTON NJ 08625-0805

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**Planned Real Estate Development
Registration Requirement**

Applying for a Conditional Exemption

A residential real estate developer who plans to offer units for sale must prepare and register a Public Offering Statement pursuant to the Planned Real Estate Development Full Disclosure Act, N.J.S. 45:22A-21 et seq.

Unless exempted from the requirement, no developer may offer or dispose of any interest in a **planned real estate development** or a **retirement community** prior to registration. A planned real estate development is any real property in New Jersey which consists of or will consist of separately owned areas, lots, parcels, units or interests which are offered or disposed of pursuant to a common promotional plan and providing for common or shared elements or interests in real property. A planned real estate development includes planned unit developments and planned unit residential developments as defined in the Municipal Land Use Law. A retirement community is land divided or to be divided into ten or more lots for the purpose of sale or lease as part of a common promotional plan where such is represented as a community with age restrictions.

The requirements for registration are found in N.J.A.C. 5:26-1.1 et seq. These regulations are not available on the web. Developers and others who contemplate making a public offering are encouraged to seek legal counsel for the preparation of and submittal of the necessary documentation to support a registration application.

Planned Real Estate Development, P. O. Box 805, Trenton, NJ 08625-0805 (Mail)
101 South Broad Street, Trenton, NJ 08608 (Delivery)



Unless the method of disposition is adopted for purposes of evasion, registration is not required for offers or dispositions:

- 1) By an owner for his or her own account in a single or isolated transaction;
- 2) Wholly for industrial, commercial, or other non-residential purposes;
- 3) Pursuant to court order;
- 4) By the United States, by this State, or any of its agencies or political subdivisions;
- 5) Of real property not in New Jersey;
- 6) Of cemetery lots or interests;
- 7) Of less than 100 lots, parcels, units or interests; provided, however, that with respect to condominiums, cooperatives, time-sharing or retirement communities this exemption shall not apply, irrespective of the number of lots, parcels, units or interests offered or disposed of;
- 8) In a development composed wholly of rental units, where the relationship created is one of landlord and tenant;

For developments that are not exempt by statute (see 1 through 8 above) the agency may grant a **Conditional Exemption** from the registration requirement;

- If the offering is not part of a larger offering and consists of fewer than 10 lots, parcels, units or interests; or,
- If the offering consists entirely of units affordable and legally restricted to persons of low or moderate income; or,
- If the agency finds that the enforcement of the Act is not necessary in the public interest or for the protection of purchasers by reason of the small amount of the purchase price or the limited character of the offering or the limited nature of the common or shared elements.

However, a developer making a public offer that receives a Conditional Exemption from registration must disclose to prospective purchasers information and documentation that the Agency deems appropriate including, but not limited to the information sought in the form entitled *Disclosure Notice*.

An application for a Conditional Exemption must include:

- ❑ The application fee in the amount of \$112 payable by check to the “Treasurer, State of New Jersey.” No fee is charged for a development consisting entirely of units legally restricted to occupancy by households of low or moderate income provided that documentation of the designation and legal restrictions on continued affordability are included.
- ❑ A cover letter with a brief narrative description of the project including any special conditions that should be disclosed to purchasers, and the basis upon which the exemption is sought. Indicate whether the development is new construction or a conversion of an existing building and the status of any tenancies. Be sure to include the name, telephone number and mailing address of the person representing the sponsor/developer to the agency as well as the name of the sponsor.

If the exemption is sought for a project specifically exempt by statute (e.g. less than 100 units and not age restricted, a condominium or a cooperative) provide documentation in support of the assertion (e.g. municipal resolution approving the project size of less than 100 units).

- ❑ If the project is new construction, proof of a new homebuilder registration in the name of the person or entity that will be transferring title to the completed units.
- ❑ If the project is three or more occupied units, include an affidavit of service of the full plan of conversion. Additionally, if the project is five or more occupied units include an affidavit of service for protected and disabled tenants.
- ❑ If the project is a vacant conversion an affidavit executed by the sponsor to the effect that no units are occupied or that the tenancies are strictly seasonal.
- ❑ A completed *Disclosure Notice*.
- ❑ An *Affidavit of Sponsor* that no agreements have been or will be signed until the exemption has been approved and a disclosure notice is provided to the prospective buyer. In the event that this affidavit cannot be executed, an exemption may be conditioned on receipt of an *Affidavit of Buyer* acknowledging receipt of the Disclosure Notice and a right to rescind the contract of sale based on the fact that the contract had been executed prior to the legally required disclosure.
- ❑ Survey or Plot Plan including documentation of tax lot and block numbers.
- ❑ For projects that are over 100 units:
 - The exemption application must also include a proposed operating budget for the association accompanied by a statement executed by an independent accountant or a property manager with experience in the management of common interest communities that the budget is adequate, and;
 - A municipal resolution (or other documentation provided by the municipality) addressing the status of project roadways and other capital improvements as well as the maintenance arrangements involving such services as snow removal, garbage pick up, street lighting, and so on.
 - A copy of any Declaration of Covenants and Restrictions
- ❑ Submit the application and fee to:

The Planned Real Estate Development Section
Bureau of Homeowner Protection
PO Box 805
Trenton, N.J. 08625

Telephone inquiries can be made to (609) 984-7574 or fax to (609) 292-2839